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Attorneys for Petitioner
AIDS HEALTHCARE FOUNDATION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

AIDS HEALTHCARE FOUNDATION, a California Corporation,)	Case No.: 19STCP04094
)	
Petitioner,)	VERIFIED PETITION FOR WRIT OF
v.)	MANDATE PURSUANT TO THE
)	CALIFORNIA CONSTITUTION AND
CITY OF LOS ANGELES; OFFICE OF LOS)	THE CALIFORNIA PUBLIC RECORDS
ANGELES MAYOR ERIC GARCETTI; and)	ACT, AND COMPLAINT FOR
DOE RESPONDENTS 1 through 10 inclusive,)	DECLARATORY AND INJUNCTIVE
)	RELIEF
)	
Respondents)	
)	
)	
)	
)	
)	

Petitioner AIDS HEALTHCARE FOUNDATION (hereinafter “Petitioner” or “AHF”) petitions this Court for a writ of mandate directed to Respondents CITY OF LOS ANGELES (“Respondent” or “City”) and OFFICE OF LOS ANGELES MAYOR ERIC GARCETTI (“Respondent” or the “Mayor”) commanding Respondents to comply with the California Public Records Act, Government Code section 6250 et seq. (“CPRA”) and Article I, section 3(b) of the

1 California Constitution (“Article I, section 3(b)”), by promptly making available records
2 concerning the conduct of the people’s business.

3 Petitioner avers as follows:

4 **THE PARTIES**

5 1. Petitioner AHF is a California nonprofit tax-exempt 501(c)(3) corporation, which
6 is domiciled and has its principal place of business in Los Angeles, California. AHF provides
7 cutting-edge HIV/AIDS medical care and advocacy to nearly 1.3 million patients regardless of
8 their ability to pay in 43 countries, including the United States. AHF also conducts free HIV tests
9 across the world and advocates for people impacted by HIV/AIDS and runs a network of
10 pharmacies across the United States where it provides specialty services for patients living with
11 HIV/AIDS. Through its Healthy Housing Foundation initiative, AHF also provides decent
12 housing units at an affordable cost to low-income people, including families with children, and
13 those previously unsheltered or homeless.

14 2. The Office of Los Angeles Mayor Eric Garcetti is a public, governmental entity
15 serving the people of the City of Los Angeles and is a “Local Agency” as defined by the CPRA
16 (Government Code section 6252) and thus subject to the CPRA.

17 3. Respondent City of Los Angeles (“City”) is the public, governmental entity
18 serving the people of the City Los Angeles. City is a political subdivision of the State of
19 California

20 4. Under the CPRA (Government Code section 6258) and Article I, section 3(b),
21 AHF is entitled to pursue its right of access to the records sought herein by petitioning this Court
22 for a writ of mandate and/or declaratory and injunctive relief prohibiting City and the Mayor from
23 withholding the records AHF has requested and compelling Respondents to make those records
24 public.

25 5. The true names and capacities, whether individual, corporate, associate, or
26 otherwise, of Respondents Does 1 through 10, inclusive, are presently unknown to AHF and for
27 that reason those Doe Respondents are sued by such fictitious names. AHF is informed and
28 believe, and thereon allege, that each of Does 1 through 10 is in some way responsible for the

1 damages alleged herein. AHF will seek leave of this Court to amend its complaint when the true
2 names and capacities of said Respondents are known.

3 6. Petitioner is informed and believe, and thereon alleges, that at all relevant times,
4 unless otherwise specified, Respondents were each acting as an agent, servant, or representative
5 of each other, were at all times acting within the course and scope of their agency, servitude or
6 representation, and that all acts of Respondents and each of them, were authorized, directed and
7 ratified by each of the remaining Respondents.

8 **JURISDICTION AND VENUE**

9 7. Petitioner brings this petition for writ of mandate to order the Mayor to comply
10 with the CPRA. This petition is pursuant to sections 1085 *et seq.* of the California Code of Civil
11 Procedure and sections 6250 *et seq.* of the California Government Code.

12 8. Venue is proper in the County of Los Angeles under Government Code section
13 6259(a) and Code of Civil Procedure section 393 because the City of Los Angeles and the Office
14 of Los Angeles Mayor Eric Garcetti are located in the County of Los Angeles.

15 **FACTS**

16 9. On May 9, 2019, the Los Angeles Housing and Community Investment
17 Department (HCIDLA), with the assistance of the City Administrative Officer (CAO) and the
18 Mayor's Office, issued a Request for Proposals (RFP) with the goal of identifying innovative
19 housing production and/or financial models that can produce supportive and/or affordable units
20 with funding from Proposition HHH, and that could be completed no more than two years from
21 funding contract execution.

22 10. On or about June 10, 2019, AHF submitted a timely proposal to HCIDLA detailing
23 AHF's qualifications and requesting a Subordinate Loan in the amount of \$24,800,000 to
24 construct between 248-262 units of permanent supportive housing for single adults and older
25 adults, including LGBTQ individuals and persons living with chronic health conditions, in the
26 Skid Row area of Los Angeles.

27 11. On information and belief, HCIDLA and the Mayor's Office received 19
28 applications for funding pursuant to the RFP. Also on information and belief, as part of the RFP

1 process, HCIDLA, the Mayor's Office, and a panel of judges reviewed all applications to assign
2 point scores and to make recommendations for funding.

3 12. On information and belief, AHF asserts that the RFP process created extensive
4 records in the possession and control of Respondents and that those records are public records as
5 defined by the CPRA.

6 13. Via letter dated August 22, 2019 (attached hereto as **Exhibit 1**), AHF was
7 informed that the Mayor's Office and HCIDLA had decided that they would not accept AHF's
8 proposal for financial support under the RFP. AHF filed a timely appeal of this decision on
9 August 27, 2019 with HCIDLA pursuant to the express terms of the RFP.

10 14. On August 27, 2019, AHF submitted a request for public records to HCIDLA
11 (attached hereto as **Exhibit 2**).

12 15. On September 4, 2019, AHF received a response to its records request from
13 HCIDLA (attached hereto as **Exhibit 3**) stating that the "RFP was managed by the Mayor's Staff,
14 although our Land Development Unit in HCIDLA assisted with the release of the HHH Innovative
15 Housing Challenge RFP and threshold review, but all documents following the initial threshold
16 review are held by the Mayor's team. Consequently, please contact the Mayor's office for
17 records."

18 16. AHF dutifully submitted a request for public records to the Mayor's Office on
19 September 4, 2019 (attached hereto as **Exhibit 4**) seeking the following records:

- 20 (1) All rules, regulations, policies, procedures, guidelines, criteria,
21 instructions and codes pertaining directly or indirectly to the RFP and the
22 proposed awards related to the RFP;
- 23 (2) Copies of all responses to the RFP submitted HCIDLA or the Mayor's
24 office;
- 25 (3) All documents (including, but not limited to, records, correspondence,
26 communications, reports, minutes, memoranda, e-mails and notes)
27 relating directly or indirectly to the RFP;
- 28 (4) A list of all individuals who reviewed and scored RFP submissions;
- (5) Information showing the specific individuals assigned to assess and score
each proposal;
- (6) Resumes and background information for each individual involved in
scoring and evaluating proposals;
- (7) Any conflict of interest statements or disclosures submitted or signed by
or on behalf of the individuals involved in scoring and evaluating
proposals;

- (8) Evaluation, guidance and scoring instructions provided to individuals who reviewed and scored RFP submissions;
- (9) Scoring sheets associated with the review of AHF's proposal;
- (10) Scoring sheets associated with each of the other applicants' proposals;
- (11) Any evaluations or other assessments of AHF's proposal;
- (12) Any evaluations or other assessments of the other applicants' proposals;
- (13) Any correspondence between HCIDLA, the Mayor's office, and the RFP applicants regarding a determination of the award of a contract pursuant to the RFP or the awarding of a contract pursuant to the RFP;
- (14) Any correspondence among or between HCIDLA, the Mayor's office, the individuals involved in scoring and evaluating proposals related in any way to the RFP; and
- (15) All rules, regulations, policies, procedures, guidelines, criteria, instructions and codes prepared by or in the possession of HCIDLA or the Mayor's office provided by any other County or State agency which govern the process for procurement applicable to this RFP.

17. On September 16, 2019, AHF received a terse response (attached hereto as **Exhibit 5**) from the Mayor's Office stating only that "[it] is our policy not to disclose materials related to competing bids while the contracting process is still ongoing." Notably, the Mayor's Office did not cite any sections of the CPRA as justification for withholding obviously public records. The Mayor's Office's "policy" is not a recognized exemption under the CPRA.

18. Respondents failed to recognize that many of the categories of documents sought by AHF are not related at all to competing bids and would thus fall outside the scope of Respondents' specious "policy," assuming, for the sake of argument, that such policy were valid.

19. Respondents' failure to provide all of the records sought by AHF's CPRA request is a violation of the CPRA and the California Constitution.

20. Under the CPRA, all records of public entities must be disclosed unless of the specifically enumerated exemptions to disclosure under the CPRA applies. (Gov't Code § 6253(b) "Except with respect to public records exempt from disclosure *by express provisions of law*, each state or local agency . . . shall make the records promptly available to any person" (Emphasis added))

21. The actions of Respondents violate AHF's rights under the CPRA and the California Constitution because AHF has been denied its right to inspect and obtain copies of records and information obtained by, and in possession of, a public entity and because the information sought by AHF is not exempt from disclosure.

1 **FIRST CAUSE OF ACTION**

2 (Writ of Mandate against the City of Los Angeles, the Office of the Mayor of Los Angeles, and
3 Does 1 to 10)

4 (California Government Code Section 6250 *et seq.*; California Code of Civil Procedure Section
5 1085 *et seq.*)

6 22. AHF re-alleges and incorporates by reference the allegations set forth in
7 paragraphs 1 through 21 above.

8 23. On September 4, 2019, AHF made a proper written request to inspect or receive
9 copies of public records. AHF's request adequately and reasonably described the records sought.

10 24. Respondents maintain the records sought.

11 25. AHF was at all relevant times ready to tender any required fees to cover
12 Respondents' costs in providing copies of or access to the requested records.

13 26. Respondents have refused to permit AHF to inspect or receive complete copies of
14 these records. In addition, Respondents intimate that certain records are exempt from disclosure
15 under the CPRA without citing the express exemptions as required by the CPRA itself.

16 27. AHF asserts that the records are not exempt from disclosure, and that it has not
17 received complete copies of these records, or been allowed to inspect these records.

18 28. Respondents are obligated to disclose these records under the CPRA.

19 29. AHF has no adequate remedies at law in that monetary damages will not
20 compensate AHF for deprivation of access to the information which AHF is seeking.

21 **PRAYER**

22 **WHEREFORE**, Petitioner prays as follows:

- 23 1. That the Court find and determine that Respondents conduct in denying access to
24 the requested records was and is in violation of applicable provisions of the
25 California Public Records Act and Article 1, section 3 of the California
26 Constitution;

2. That the Court find and declare that AHF is entitled under the California Public Records Act and Article I, section 3(b) of the California Constitution to inspect, obtain, and copy all of the records requested by AHF;
3. That the Court issue a writ of mandate directing Respondents to disclose the public records sought by AHF;
4. That the Court award AHF costs and reasonable attorney's fees, in addition to any other relief granted or other costs awarded;
5. For costs of suit herein incurred, and for reasonable litigation expenses; and
6. For such other and further relief as the court may deem proper.

Dated: September 20, 2019



Tom Myers
Arti L. Bhimani
Liza M. Brereton
Courtney N. Conner
AIDS Healthcare Foundation
6255 W. Sunset Blvd., 21st Floor
Los Angeles, CA 90028
Phone: 323-860-5200
Fax: 323-467-8450

Exhibit 1



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

August 22, 2019

AIDS Healthcare Foundation
6255 W. Sunset Blvd., Floor 21
Los Angeles, CA 90028

Attention: Michael Weinstein, President

Re: HHH Housing Challenge Request for Proposals

Dear Mr. Weinstein:

The Mayor's Office and the Los Angeles Housing + Community Investment Department (HCIDLA) have received your application submitted in response to the HHH Housing Challenge RFP. A total of 19 applications were received, with \$235.2 million in total funding requests.

As part of the RFP, HCIDLA, Mayor's Staff, and an expert panel of judges reviewed your application to determine its point score total. Scores were based on the following program priorities (with the corresponding scores for your application in each priority area):

Program Priority Area	Points Available	Points Scored
Development Strategy	15	10
Organizational Structure, Experience, and Capacity	15	5
Design Features	15	9
Financing Structure and Cost Efficiency	30	17
Streamlined Entitlement / Permitting Path	10	10
Construction Timeline and Quality	10	7
Community Engagement	5	5
TOTAL	100	63

The final score for your application has been calculated as 63, which did not meet the minimum score requirement (75) to be considered for funding. Therefore, HCIDLA and the Mayor's Office have determined that a financial letter of commitment for your proposal will not be recommended to the HHH Citizens Oversight Committee on August 23, 2019.

For any questions, please contact me at 213-880-0912 or Jennifer.kim@lacity.org.

Sincerely,

Jen Kim

JEN KIM
Program Director

Exhibit 2

August 27, 2019

Via Email to hcidla.custodian@lacity.org

CUSTODIAN OF RECORDS
LOS ANGELES HOUSING + COMMUNITY INVESTMENT DEPARTMENT
1200 W 7TH ST STE 450
LOS ANGELES CA 90017

RE: HHH Housing Challenge Request for Proposals

Pursuant to the California Public Records Act § 6250 *et seq.*, AIDS Healthcare Foundation (“AHF”) requests copies of public records related to the consideration, scoring, and funding recommendations of all proposals or applications submitted in response to the above referenced Request for Proposals (the “RFP”). More specifically, AHF requests the following material related to the responses submitted to the RFP and to Los Angeles Housing+Community Investment Department’s (the “HCIDLA”) recommendations and scoring of the responses:

1. All rules, regulations, policies, procedures, guidelines, criteria, instructions and codes pertaining directly or indirectly to the RFP and the proposed awards related to the RFP;
2. Copies of all responses to the RFP submitted HCIDLA;
3. All documents (including, but not limited to, records, correspondence, communications, reports, minutes, memoranda, e-mails and notes) relating directly or indirectly to the RFP;
4. A list of all individuals who reviewed and scored RFP submissions;
5. Information showing the specific individuals assigned to assess and score each proposal;
6. Resumes and background information for each individual involved in scoring and evaluating proposals;
7. Any conflict of interest statements or disclosures submitted or signed by or on behalf of the individuals involved in scoring and evaluating proposals;
8. Evaluation, guidance and scoring instructions provided to individuals who reviewed and scored RFP submissions;
9. Scoring sheets associated with the review of AHF’s proposal;
10. Scoring sheets associated with each of the other applicants’ proposals;
11. Any evaluations or other assessments of AHF’s proposal;
12. Any evaluations or other assessments of the other applicants’ proposals;

13. Any correspondence between HCIDLA and the RFP applicants regarding a determination of the award of a contract pursuant to the RFP or the awarding of a contract pursuant to the RFP;
14. Any correspondence among or between HCIDLA, the individuals involved in scoring and evaluating proposals related in any way to the RFP; and
15. All rules, regulations, policies, procedures, guidelines, criteria, instructions and codes prepared by or in the possession of HCIDLA provided by any other County or State agency which govern the process for procurement applicable to this RFP.

AHF is willing to pay fees for this request up to a maximum of \$200. If you estimate that the fees will exceed this limit, please inform me before incurring such costs.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Please note that AHF has filed an appeal of the award decisions related to this RFP, so time is of the essence in regard to obtaining the material requested. If you have any questions in the interim, please contact me at (202) 543-1081 or by email at Jeffrey.Blend@aidshhealth.org.

Thank you,



Jeffrey Blend
Assistant General Counsel

Cc: Jennifer Kim, Program Director, Jennifer.Kim@lacity.org

Exhibit 3



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

Administration Bureau

1200 West 7th Street, 9th Floor, Los Angeles, CA 90017
tel 213.928.9071 | fax 213.808.8999
hcidla.lacity.org

September 4, 2019

CoR File No. 22587

VIA Email TO Jeffrey.Blend@aidshealth.org

Subject: CPRA request regarding:
HHH Housing Challenge Proposals, Request for Proposals (the "RFP")

Dear Constituent:

This letter is in response to your California Public Records Act (CPRA) request dated 8/27/2019 and received by this office on 8/27/2019 for documents related to Please note that the HHH Housing Challenge RFP was managed by the Mayor's Staff, although our Land Development Unit in HCIDLA assisted with the release of the HHH Innovative Housing Challenge RFP and threshold review, but all documents following the initial threshold review are held by the Mayor's team. Consequently, please contact the Mayor's office for records.

This Department is cognizant of its responsibilities under the CPRA and recognizes that the statutory scheme was enacted to maximize citizen access to the workings of government. However, after a search of our records, we cannot locate any records responsive to your request.

If you have any questions or need further information, please phone the Custodian of Records line at (213) 922-9612.

Sincerely,

A handwritten signature in black ink that reads "Joann M. Chen".

Joann M. Chen
Custodian of Records

Exhibit 4

September 4, 2019

Via Email

ATTN: CUSTODIAN OF RECORDS
Office of Mayor Eric Garcetti
200 N. Spring Street
Room 303
Los Angeles, CA 90012
Email: mayor.garcetti@lacity.org

RE: Request for Records Regarding HHH Housing Challenge Proposals

Pursuant to the California Public Records Act § 6250 *et seq.*, AIDS Healthcare Foundation (“AHF”) requests copies of public records related to the consideration, scoring, and funding recommendations of all proposals or applications submitted in response to the above referenced Request for Proposals (the “RFP”). More specifically, AHF requests the following material related to the responses submitted to the RFP and to the Mayor’s office recommendations and scoring of the responses. Please note that AHF previously submitted an identical record request to HCIDLA who informed us that all relevant records are held by the Mayor’s office. I have attached the response from HCIDLA for your reference.

Specifically, AHF requests the following:

1. All rules, regulations, policies, procedures, guidelines, criteria, instructions and codes pertaining directly or indirectly to the RFP and the proposed awards related to the RFP;
2. Copies of all responses to the RFP submitted HCIDLA or the Mayor’s office;
3. All documents (including, but not limited to, records, correspondence, communications, reports, minutes, memoranda, e-mails and notes) relating directly or indirectly to the RFP;
4. A list of all individuals who reviewed and scored RFP submissions;
5. Information showing the specific individuals assigned to assess and score each proposal;
6. Resumes and background information for each individual involved in scoring and evaluating proposals;
7. Any conflict of interest statements or disclosures submitted or signed by or on behalf of the individuals involved in scoring and evaluating proposals;
8. Evaluation, guidance and scoring instructions provided to individuals who reviewed and scored RFP submissions;
9. Scoring sheets associated with the review of AHF’s proposal;
10. Scoring sheets associated with each of the other applicants’ proposals;

11. Any evaluations or other assessments of AHF's proposal;
12. Any evaluations or other assessments of the other applicants' proposals;
13. Any correspondence between HCIDLA, the Mayor's office, and the RFP applicants regarding a determination of the award of a contract pursuant to the RFP or the awarding of a contract pursuant to the RFP;
14. Any correspondence among or between HCIDLA, the Mayor's office, the individuals involved in scoring and evaluating proposals related in any way to the RFP; and
15. All rules, regulations, policies, procedures, guidelines, criteria, instructions and codes prepared by or in the possession of HCIDLA or the Mayor's office provided by any other County or State agency which govern the process for procurement applicable to this RFP.

AHF is willing to pay fees for this request up to a maximum of \$200. If you estimate that the fees will exceed this limit, please inform me before incurring such costs.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Please note that AHF has filed an appeal of the award decisions related to this RFP, so time is of the essence in regard to obtaining the material requested. If you have any questions in the interim, please contact me at (202) 543-1081 or by email at Jeffrey.Blend@aidshealth.org.

Thank you,



Jeffrey Blend
Assistant General Counsel



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

Administration Bureau

1200 West 7th Street, 9th Floor, Los Angeles, CA 90017
tel 213.928.9071 | fax 213.808.8999
hcidla.lacity.org

September 4, 2019

CoR File No. 22587

VIA Email TO Jeffrey.Blend@aidshhealth.org

Subject: CPRA request regarding:
HHH Housing Challenge Proposals, Request for Proposals (the "RFP")

Dear Constituent:

This letter is in response to your California Public Records Act (CPRA) request dated 8/27/2019 and received by this office on 8/27/2019 for documents related to Please note that the HHH Housing Challenge RFP was managed by the Mayor's Staff, although our Land Development Unit in HCIDLA assisted with the release of the HHH Innovative Housing Challenge RFP and threshold review, but all documents following the initial threshold review are held by the Mayor's team. Consequently, please contact the Mayor's office for records.

This Department is cognizant of its responsibilities under the CPRA and recognizes that the statutory scheme was enacted to maximize citizen access to the workings of government. However, after a search of our records, we cannot locate any records responsive to your request.

If you have any questions or need further information, please phone the Custodian of Records line at (213) 922-9612.

Sincerely,

A handwritten signature in black ink that reads "Joann M. Chen".

Joann M. Chen
Custodian of Records

Exhibit 5



ERIC GARCETTI
MAYOR

September 16, 2019

VIA E-MAIL: (Jeffrey.Blend@aidshealth.org)

Jeffrey Blend
AIDS Healthcare Foundation
517 C Street NE
Washington, DC 20002

Re: California Public Records Act Request

Dear Mr. Blend,

This letter responds to your September 4, 2019 California Public Records Act ("CPRA") request to the Office of the Mayor of Los Angeles ("Office") seeking certain "records regarding HHH Housing Challenge Proposals" ("Request").

It is our policy not to disclose materials related to competing bids while the contracting process is still ongoing. You may resubmit your Request at a later date, if you so choose.

Sincerely,

SKYLER GRAY
Deputy Legal Counsel
Mayor Eric Garcetti